
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH , CENTRAL DIVISION**

CENTER FOR BIOLOGICAL DIVERSITY,
et al.,

Plaintiff,

v.

U.S. DEPARTMENT OF THE INTERIOR, et

al.,

Defendant.

SCHEDULING ORDER

Case No. Case No. 2:19-cv-00636-JNP-CMR

Judge Jill N. Parrish

Magistrate Judge Cecilia M. Romero

I. Statement of the Issues

This case was initiated by Plaintiffs in the District Court in the District of Columbia on March 21, 2019 (Doc. 1). On August 20, 2019, the District Court ordered this case transferred to the District of Utah. Prior to transfer, Federal Defendants submitted an Answer (Doc. 14), Plaintiffs filed an Amended Complaint (Doc. 20), and Federal Defendants filed an Answer to the Amended Complaint (Doc. 21). In addition, the State of Utah and the Utah Board of Water Resources jointly moved to intervene (Doc. 30). On September 9, 2019, the Court ordered the parties to file a proposed schedule within 28 days, by October 7, 2019 (Doc. 33).

a. Agency Decision Challenged

Plaintiffs challenge Defendants decision to enter into the Green River Block Exchange (“GRBE”) Contract without adequate review of the proposed project under National Environmental Policy Act (“NEPA”) and its implementing regulations.

b. Plaintiffs Grounds For Challenging Agency Decision

Plaintiffs challenge the decision to rely on the 2019 Green River Block Water Exchange Contract Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) on several bases in the following four claims under NEPA and the Administrative Procedures Act (APA): 1) failure to prepare an Environmental Impact Statement (EIS); 2) unlawful segmentation of NEPA analysis; 3) failure to adequately analyze impacts- arbitrary and capricious EA; and 4) failure to consider reasonable range of alternatives. (Amended Complaint, Doc. 20.)

c. Agency's Response in Support of Agency Decision:

Federal Defendants deny that their environmental analysis is arbitrary, capricious, or contrary to law. Federal Defendants' analysis and decision to issue the 2019 Green River Block Water Exchange Contract Final Environmental Assessment and Finding of No Significant Impact ("EA/FONSI") was reasonable, and fully complied with the National Environmental Policy Act and the Administrative Procedure Act. The EA/FONSI adequately evaluated potential environmental impacts and considered a reasonable range of alternatives. The EA/FONSI did not "segment" its analysis. Federal Defendants did not need to prepare an Environmental Impact Statement. Federal Defendants, therefore, deny that Plaintiffs have stated a claim for relief or that Plaintiffs are entitled to any relief whatsoever.

II. PROPOSED SCHEDULE

a. Administrative Record

Federal Defendants filed the administrative record on September 25, 2019. (*See* Doc. 43.)

b. Briefing Schedule

1. Plaintiffs shall confer with Federal Defendants concerning any challenge to content and scope of the administrative record before filing any motion.

2. Plaintiffs shall file any motion challenging the content and scope of the administrative record by December 24, 2019.
3. Federal Defendants shall file any response to any motion challenging the content and scope of the administrative record by February 28, 2020.
4. Any other pre-merits motions will be filed by February 28, 2020.
5. Plaintiffs shall file their Opening Brief sixty days after February 28, 2020 (by April 30, 2020) or the resolution of any objections to, or supplementation requests for, the record, or other pre-merits motions, whichever is later.
6. Federal Defendants shall file an Answer Brief no later than sixty days from the filing of Plaintiffs' Opening Brief.
7. Plaintiffs may file a Reply Brief no later than forty-five days from the filing of Answer Brief.

Pursuant to DUCivRule 7-4(5), no briefs other than those mentioned above will be received unless otherwise ordered.

DATED this 11 October 2019.



Magistrate Judge Cecilia M. Romero

United States District Court for the District of Utah